



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

MERRIL et al.

Serial Number: 08/879,139

Group Art Unit: 1643

Filed: June 19, 1997

Examiner: D. Wortman

For: ANTIBACTERIAL THERAPY WITH BACTERIOPHAGE GENOTYPICALLY
MODIFIED TO DELAY INACTIVATION BY THE HOST DEFENSE SYSTEM

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Assistant Commissioner for Patents
Washington, D.C. 20231

June 21, 1999

Sir:

I, Debbie L. Orrison, a citizen of the United States, hereby declare and state:

1. I was the docket clerk at the firm of Nikaido, Marmelstein, Murray & Oram LLP (referred to herein as the firm) as of October 2, 1998.
2. As the docket clerk at the firm at that time, my duties included following the docketing and USPTO filing procedures for the firm, including reviewing all mail received from the USPTO and docketing all due dates created by that mail in the Master Docket, which I maintained in the manner described in the Appendix attached to the Declaration by Mr. George E. Oram, Jr.
3. Upon examining the Master Docket after receiving the facsimile transmission of June 15, 1999 from Donna C. Wortman, Ph.D. in reference to the above application, I noted that the Master Docket contains no notation of any due date for a response to the

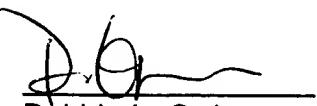
Office Action in the above application on January 2, 1999 (i.e., three months from the alleged date of mailing of the Office Action in the above application). ATTACHMENT 1 is a true and correct copy of the printout of the Master Docket for January 2, 1999.

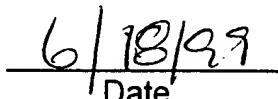
4. I have been instructed on the importance of ensuring that the Master Docket reflect every due date established by mail received by the firm from the USPTO.

5. I am not aware of any occurrence where an Office Action (in an application where the applicant has not instructed us to abandon the application) was mailed to the firm and received by the firm, but was not docketed in the Master Docket.

6. Based on the above, it is my belief that the October 2, 1998 Office Action concerning the above application was never received by the firm.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Debbie L. Orrison


Date

Enclosure:

ATTACHMENT 1